IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1236 OF 2006

Shankar Shivram Mohite Applicant
versus
Vidyadhar Laxman Shedge & ors. Respondents

Mr.Rahul Thakur for applicant.
Shri Prakash Naik for respondent no.1.
Mrs.M.M.Deshmukh, APP for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 16th October 2006

PC :

1. This is an application for cancellation of bail. The applicant is the father of the prosecutrix. Respondent no.1 is the accused. He was arrested in connection with CR No.17 of 2006 registered at Roha Police Station. The offence alleged is under section 376 of IPC..

2. I have perused the statement of the prosecutrix. The prosecutrix has been known to the accused. Their affair was going on and it appears that the respondent prima facie failed to fulfil the promise of marriage. It is in these

circumstances that the accused had sexual intercourse for a period from 4th September 2005 to 29th December 2005 and a FIR was lodged on 9th February 2006.

3. Upon a perusal of the statements it appears to me that apart from the dispute with regard to the age of the prosecutrix which is mentioned as 17 years by her, the fact is that she does not say that she was not accompanying him willingly during the above mentioned period. The cancellation application was adjourned since I was informed that there is some talk of settlement between the parties. Since the talks failed, present application is pressed.

4. In my view, it cannot be said that the learned Sessions Judge was in complete error or that his order is vitiated by total non application of mind. Therefore, I am not inclined to grant the application. More so, because any finding with regard to crucial aspect of the matter including age of prosecutrix, rendered at this stage, would have an adverse impact on the trial of the case. Interest of justice would be subserved if the trial is expedited and an additional condition is imposed

upon the accused to stay away from Village Zomble, Tal.Roha, District Raigad till trial is concluded. He shall attend Roha Police Station as directed by the Trial Court. Application disposed off.

(S.C.DHARMADHIKARI, J.)